



City of Seattle

---

Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2401583  
**Applicant Name:** Luke Delen  
**Address of Proposal:** 4541 40<sup>th</sup> Avenue S.W.

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to subdivide one parcel of land into three unit lots. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots. The construction of townhouses has been approved under project #2307387.

The following approval is required:

**Short Subdivision** - To divide one parcel of land into two unit lots.  
(Seattle Municipal Code Chapter 23.24)

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading,  
or demolition, or another agency with jurisdiction.

**BACKGROUND DATA**

Site Description

The proposal site is approximately 4,315.6 square feet and is located in a Multi-Family Lowrise Two (L-2) zone on 40<sup>th</sup> Avenue S.W. between Southwest Oregon Street and Southwest Alaska Street. 40<sup>th</sup> Avenue Southwest is a two-lane paved street with sidewalks, curbs, and gutters on both sides.

The lot has approximately 37.50-feet of street frontage along 40<sup>th</sup> Avenue S.W. The site also abuts a 16-foot wide improved alley, which is used for vehicular access. Site vegetation includes grass, shrubs and trees.

### Area Development

Zoning in the vicinity is mixed between Multi-family, Single-family, Neighborhood Commercial and Commercial. Zoning to the north of the site is Single-family (SF5000), to the south is Neighborhood Commercial Three (NC3-65'). To the west of the site is Lowrise Three (L-3) zoning and the northend of the L-3 block is Neighborhood Commercial (NC3-85'). Further east of the site is Commercial One (C-1) zoning. The area to the north and west of the site is characterized largely by residential use.

### Proposal Description

The applicant proposes to subdivide one parcel of land into three unit lots. Proposed unit lot sizes are: A) 2,182.9 square feet, B) 1,044.3 square feet and C) 1,088.4 square feet. Parking for the three units will be provided by parking easement, on Unit Lots B and C. Required vehicle access for the three surface parking spaces is proposed from the adjacent 16-foot wide concrete alley.

### Public Comments

The public comment period for the proposed project ended on April 14, 2004 and no comments were received.

## **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development (DPD), review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light, and review by the Land Use Planner.

1. *Conformance to the applicable Land Use Code provisions;*

The existing parent lot subject to this subdivision does not conform to all development standards of the L-2 zone, but is recognized as an existing legal nonconformity. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and other code provisions applicable to unit lot subdivisions. Any new development must conform to code requirements for the parent lot at the time of application.

2. *Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005;*

Vehicular access to the three surface parking spaces for the three unit lots will be from the adjacent 16-foot wide concrete alley. A 4-foot Pedestrian Access and Utility Easement is provided for access from the street and across unit lot A to unit lots B and C. In order to insure that the use and maintenance responsibilities associated with the common areas are clear, the applicant/responsible party will be required to record an easement maintenance agreement with the final short plat.

The Seattle Fire Department has reviewed the proposed lot configuration with regard to fire protection and emergency vehicle access and has no objection. No improvements were requested by the Fire Department.

Seattle City Light requires an overhead/underground easement on the south 5 feet of Unit Lot C as described in Exhibit "A".

As conditioned, this short plat provides for adequate access for vehicles, utilities, and fire protection.

3. *Adequacy of water supply, sanitary sewage disposal, and drainage;*

Sanitary Sewer: Sanitary sewer issues, both public and private, have been resolved, or will be resolved, at the time of side sewer permit issuance.

Drainage: Drainage issues, both public and private, have been resolved, or will be resolved, at the time of side sewer permit issuance.

Seattle Public Utilities reviewed the unit lot subdivision application and approved a Water Availability Certificate, No. 2004-0300 on March 23<sup>rd</sup>, 2004. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed unit lot subdivision meets the minimum provisions of the Seattle Land Use Code. The proposal meets all applicable criteria for approval of a short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The site is mapped as steep slope, which is a City of Seattle Environmentally Critical Area. A limited ECA exemption was granted under DPD Project #2400451. It was determined that the mapped steep slope area is less than 20-feet in height and not part of a larger slope system. ECA steep slope standards were waived for the site. Furthermore, topographic information on the approved construction plans shows that the final slope does not qualify as a Steep Slope. No further ECA steep slope analysis is warranted.

6. *Is designed to maximize the retention of existing trees;*

Not applicable, as the development of the subject site is permitted by approval of the associated building permit. No trees are expected to be removed as a result of this short subdivision.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

Section 23.24.045 of the Seattle Municipal Code provides that under certain circumstances some types of parcels may be created that do not individually meet the zoning requirements for lot size, setbacks, density, and structure width and depth. These are called unit lot subdivisions and may be permitted as long as the development as a whole meets development standards.

However, as a result of this subdivision, development on the individual lots may be non-conforming. To assure that future owners have constructive notice that additional development may be limited due to non-conformities; the following statement shall be required to be included as a note on the final short subdivision: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code."

### **DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

### **CONDITIONS - SHORT SUBDIVISION**

#### **Prior to Recording**

The owner(s) and responsible party(s) shall:

1. Provide final recording forms and fees. Have the final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel or tract created by the short subdivision shall be surveyed in the field and all property corners set in conformance with appropriate state statute. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown, as well as all structures and distances from them to the proposed property lines. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. A licensed surveyor shall stamp the short plat drawings.

2. Insert the following on the face of the plat: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code."
3. Provide a joint maintenance and responsibility agreement for maintenance and use of shared walls on property lines and all ingress, egress and utility easements.
4. A street address sign, meeting the standards of the Seattle Building Code, shall be erected to show addresses from 49<sup>th</sup> Avenue S.W., either by easement or covenant, for all individual units.
5. Provide the following statement on the face of the plat to reference the Overhead and Underground easement, Exhibit "A", required by Seattle City Light: "An easement is granted to Seattle City Light as shown on page \_\_\_\_\_."

Signature: (signature on file) Date: July 19, 2004  
Joan S. Carson, Land Use Planner II  
Department of Planning and Development  
Land Use Services